1680. *July* 16.

DRUMELZIER'S TUTOR-ACCOUNT *against* His BROTHER The EARL of TWEEDALE.

No. 199.

The Lords allowed deduction of rent given to a tenant, the Earl deponing he was not able to keep the room without deduction, and that he could not get another tenant, or set the lands at a better rate. The Lords had done the same before betwixt Oxenfurd and his Tutors, and to Mr. Patrick Home, as factor for his brother; but the Lords refused the Earl a pension of £.16 they had paid to a tenant's relict, and £.100 to the former Laird of Drumelzier, though the minor's father was in use to do it; which use tutors continue where they are not settled in writ; but because of this loss the Lords added £.100 now to the tutor's factor's pension yearly, they having a latitude as to salary.

Fountainhall MS.

1680. *July* 29. A. *against* B.

No. 200.
Removing of suspect tutors.

Having intented a reduction of a tutory testamentary, 1*st*, That the nomination was blank, and after his death he filled up himself as tutor; 2*do*, That he had not accepted the office within year and day though he knew of it, and thereby forefaulted the office, and the pursuer was served tutor in law; 3*tio*, He had cheated the defunct, and obtained a writ from him by circumvention in place of another. The Lords thought that the two first reasons deserved much consideration, and therefore waving that, they removed him as suspected on the last, though the circumvention was committed before the nomination.

Fountainhall MS.

1680. *November* 17. SANDILANDS *against* TAILFER.

No. 201.
A tutor cannot state for his pupil's aliment more than actually expended, and not exceed the annual-rent of the stock.

In auditing of the tutor accounts by Patrick Tailfer, tutor to William Sandilands, the tutor claiming £.328 yearly, for the pupil's aliment, it was alleged for the pupil, that the tutor could not spend more for his aliment than the annual-rent of his free stock, which was but 6,000 merks. It was answered, That the pupil was ordered to be sent to the school of Prestoun by the council, to be bred there; and produces a discharge of umquhile Mr. Patrick Cook, minister there, with whom he was boarded, of £.160 yearly for his boarding, so that his entertainment being more than the ordinary, he ought not to be loser of what he truly expended.

The Lords allowed no more for the aliment than what should be instructed truly expended, the same not exceeding the annual-rent of his free stock.

Stair, v. 2. p. 799.